

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>DAVID COPP</b>	)	
Claimant	)	
VS.	)	
	)	Docket No. 206,554
<b>UNIVERSITY OF KANSAS</b>	)	
Respondent	)	
AND	)	
	)	
<b>STATE SELF INSURANCE FUND</b>	)	
Insurance Carrier	)	

**ORDER**

On August 13, 1997, the application of claimant for review by the Workers Compensation Appeals Board of an Award entered by Special Administrative Law Judge Douglas F. Martin on February 21, 1997, came on for oral argument.

**APPEARANCES**

Claimant appeared by and through his attorney, James M. Crowl appearing for Andrea S. Stubblefield of Topeka, Kansas. Respondent and its insurance carrier appeared by and through their attorney, Scott M. Gates of Topeka, Kansas. There were no other appearances.

**RECORD AND STIPULATIONS**

The record and stipulations as specifically set forth in the Award of the Special Administrative Law Judge are herein adopted by the Appeals Board.

In addition, the parties stipulated: claimant's entitlement to unauthorized medical up to \$500 upon presentation of an itemized statement; claimant's entitlement to future medical upon application to and approval by the Director; and, temporary total disability compensation for the periods December 16, 1994, through December 27, 1994; December 30, 1994, through January 9, 1995; March 31, 1995, through April 3, 1995; and May 2, 1995, through May 9, 1995.

**ISSUES**

- (1) Whether claimant suffered personal injury by accident on the date alleged.
- (2) Whether claimant's accidental injury arose out of and in the course of his employment with respondent.
- (3) The amount of compensation due.
- (4) Temporary total disability compensation during the period November 8, 1995, through February 9, 1996.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Having reviewed the whole evidentiary record filed herein, including the stipulations of the parties, the Appeals Board makes the following findings of fact and conclusions of law:

The Appeals Board finds that the Award of the Special Administrative Law Judge sets out findings of fact and conclusions of law in some detail and it is not necessary to repeat those herein. The findings and conclusions enumerated in the Award of the Special Administrative Law Judge are accurate and appropriate and the Appeals Board adopts same as its own findings and conclusions as if specifically set forth herein.

The Special Administrative Law Judge denied claimant's request for benefits finding claimant had failed to prove that he sustained accidental injury arising out of and in the course of his employment with respondent. The decision by the Special Administrative Law Judge was based primarily upon the deposition of Mark Praeger, M.D., the physician who performed the surgery on claimant. Dr. Praeger opined that claimant's perirectal abscess was not caused by his work.

Dr. Praeger testified that he had treated hundreds of perirectal abscesses and in his opinion they occur spontaneously with no aggravating incident. He did not find claimant's situation any different than the others he had treated. Based upon the very strong opinion of the treating physician, the Special Administrative Law Judge found that claimant had failed to prove that the condition from which he sought treatment resulted from personal injury by accident arising out of and in the course of his employment. The Appeals Board finds the opinion of Dr. Praeger to be the most convincing and affirms the denial of benefits in this matter.

**AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Award entered by Special Administrative Law Judge Douglas F. Martin dated

February 21, 1997, should be, and is hereby, affirmed and in accordance with the above findings an award is denied claimant for the injuries alleged.

The fees necessary to defray the expense of the administration of the Workers Compensation Act are assessed against the respondent and its insurance carrier to be paid as follows:

Appino & Biggs Reporting Service	
Transcript of Regular Hearing	\$216.00
Curtis, Schloetzer, Hedberg, Foster & Associates	
Deposition of Gary Wayne Baker	\$142.20
Deposition of Kenneth Coffey, Jr.	\$ 94.70
Deposition of Stanley C. Roberts	unknown
Deposition of Pamela J. Confer	unknown
Deposition of John Deems	\$ 57.80
Deposition of Tanya Green	\$ 51.80
Deposition of Clarence Anthony Rayton	\$165.80
Deposition of Tiburcio Joe Reyes, Jr.	\$182.20
Deposition of David E. Copp	\$201.20
Deposition of Michael Dreiling	\$233.10
Deposition of Mark Praeger, M.D.	\$166.10
Deposition of Thomas W. Fulbright, M.D.	\$256.20
Special Administrative Law Judge Fee	\$150.00

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of March 1998.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: James M. Crawl, Topeka, KS  
Scott M. Gates, Topeka, KS  
Floyd V. Palmer, Administrative Law Judge  
Philip S. Harness, Director